App. F. IX-4

Previous References

1937.
(Low)

File No. 130-37
Serial Nos. 3-4

PRESERVED

Letter References

(D)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 2

Part B for March 1938

SUBJECT.

Release of Basappah & Srinivasa Murthy

Shimoga Dist

SX-4 20 Nos 2 Gr of Police
" 2 Gr of Prisons
WD 0295—GPB—22,500—13-8-37 No P-4796-8 dy 17-2-38

Remits the unexpired portion of the punishment and directs immediate release of the prisoners.

25/5/38

Remission of Sentences under Sec: 401 Cr. P.C.
4977 of Basappiah and Sreenivasa Murthy, Shimo

General and Revenue Secretariat | File No. Laws 130 of 1937. | [App. F. III—2

Serial No.

5599

From

The Dist. Magt.

Shimoga

Letter no. Cr. 13/37-38, dated 15th Feb: 38 states the circumstances in which Basappiah and Sreenivasa Murthy have been convicted and sentenced under the Mysore Police Act and that they have been committed to the Sub-jail, Shimoga for serving out the default sentence, and requests order of Govt. regarding the remission of the un-expired portion of sentences under Sec: 401 Cr. P. C.

P. U. D. is submitted for perusal and orders regarding the remission of the un-expired portion of sentences.

16/2

The un-expired sentence in case of these two prisoners may perhaps be remitted under Sec. 401 Cr. P.C.

(Gen. Secy) 16/2 16.2.38

16/2

(Chief Secy) 16/2

(Member in Dewan) 16-2-38

16/2

16/2

16/2

16/2

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—18-9-37

Remission of Sentences under Sec. 401 Cr. P.C. (7)
of Basappial and Sreeman Murthy, Shimoga
4887

File No. Law 130 of 1937.

General and Revenue Secretariat

A draft G. O. is submitted for orders

Maybe approved

BKR
17-2

(Chief Secy) appd.

MMS
17.2.38

Issue now

BKR
17-2

To

(1) The D. R., Shimoga.
(2) The I. G. of Police.
(3) The I. G. of Prisons.

G.O. no P 4796-8, dt 17-2-38

Remits the un-expired portion of Sentence and directs the release.

For favour of perusal

BKR
17.2.

(II-nd Member)

Nell
18/2/38

Issue
18/2

BKR
21-2-38

OFFICE OF THE SECOND MEMBER OF COUNCIL,
17 FEB. 1938
No. 6092

B
18/2/38

507 OF 5726 p 37 (3

In repaying please quote

No. 4732-4 Enc.

Office of the Inspector General of Prisons
in Mysore

Bangalore, dated the 26th Feb. *1938*

Law 130-37

FROM

SASTRA VAIDYA PRAVINA

S. SUBBA RAO Esqr., B.A., M.B.C.M., M.R.C.S., (ENG.) L.R.C.P., D.P.H.

INSPECTOR GENERAL OF PRISONS IN MYSORE, BANGALORE.

To Law 1. The Chief Secretary to the Government of His Highness
3. the Maharaja of Mysore, Bangalore.

SECRETARY
GOVT OF MYSORE.

SIR

Adverting to Govt order No.4796-8/Law. 130-37-4 dated the 17th February 38, I have the honour to state that the prisoners referred to therein are reported to have been released from custody on the dates noted against their names in the margin.

Basappiah 14-2-38 as per memo No. Gen.588 of 37-38 dated 14-2-38 from the Special 1st class Magistrate, Shimoga.

Sreenivasa Murthy 18-2-1938.

I have the honour to be,
Sir,
Your most obedient servant,

S. Subba Rao

Inspector General of Prisons.

Submit for perusal

14/3/38

Allow B with proceedings

4/3

5070 P 837

(4)

No. C.C. 13/37-38
Enc; One.

CONFIDENTIAL.

OFFICE OF THE DEPUTY COMMISSIONER,
SHIMOGA DISTRICT.

Dated Shimoga, February 28th, *1938*.

FROM

~~S. NARAYANA RAO, Esq., M.A.~~
M. SESHADRI, ESQ., M.A.
Deputy Commissioner, & Dist. Magistrate,
Shimoga District.

CHIEF SECRETARY, Mysore 1. MAR. 1938 TO GOVT. OF MYSORE.

B.T. KESAVAIENGAR, ESQ., B.A.,
Chief Secretary to Government of Mysore,
BANGALORE.

SIR,

7(I) Adverting to Government Order No. P. 4796-8/Law. 130-37-4 dated 17-2-1938 remitting the unexpired portion of punishment passed on Basappiah and Sreenivasa Murthy under section 401, Criminal Precedure Code, I have the honour to state that Sreenivasa Murthy is reported to have been released from the District Lock-up, Shimoga on 18-2-1938 at 10-30 A.M. As regards Basappiah, he was released on 14-2-1938 as per this office order No. Cr. Rev. P. 4/37-38 dated 14-2-1938 under section 438, Criminal Procedure Code, as the conviction and sentences passed by the Special First Magistrate, Shimoga on this accused person was erroneous. A reference has also been made to the High Court of Mysore, Bangalore, recommending to modify the sentences. A copy of the reference made to the High Court is herein enclosed for kind perusal.

GENERAL SECTION 3 MAR. 1938 4950

I have the honour to be,
Sir,
Your most obedient servant,

Submitted for perusal
2/3/38

Genl Secy 2.3.38
Chief Secy 3/3

BKR 3.3
MK 3/3
BKR 3.3

District Magistrate.,
Shimoga District.

Letter No. J1.C. 280/37-38 dated 14-2-1938 from the District Magistrate, Shimoga District, to the Registrar, High Court of Mysore.

****

I have the honour to submit herewith for the orders of the High Court, the records in C.C. No. 338/37-38 on the file of the First Magistrate, Shimoga. In this case, the Shimoga Town Police placed a charge-sheet against one Basappiah on 11-2-1938 before the Special First Magistrate, Shimoga, under sections 70 and 73 of the Mysore Police Act and as the accused admitted the commission of the offences alleged, he was convicted by the said Magistrate to pay a fine of Rs 100/- in each count or in default to undergo rigorous imprisonment for one month for each of the offences. As the accused did not pay the fines, he was sent to the Lock-up to suffer the default sentences of imprisonment. The following irregularities have been committed in this case. The default sentences awarded in the case are not in accordance with sections 65 and 67 of the Indian Penal Code. The offence under section 70 of the Mysore Police Act is punishable with fine only and according to section 67 of the Indian Penal Code, the accused can be sentenced only to simple imprisonment for default of payment of fine. With regard to section 73 of the said Act, though rigorous imprisonment imposed in default of payment of fine is legal, the period of sentence is in contravention of section 65, Indian Penal Code. As the maximum term of imprisonment prescribed is three months and according to section 65 Indian Penal Code, the default sentence cannot exceed one-fourth of three months which would be 22 days.

The Magistrate reports that these errors have been caused by oversight. A copy of his letter is herewith enclosed for reference.

I therefore recommend that the default sentence in respect of the Conviction under section 70 of the Mysore Police Act, the nature of the imprisonment may be modified from rigorous to simple for the same period viz., one months and the sentences of imprisonment in respect of the conviction under Section 73 of the Mysore

Police

Police Act may be reduced to simple imprisonment for 20 days.

Pending the orders of the High Court, I have under section 438, Criminal Procedure Code, suspended the sentences pending in the case and have directed the release of the accused on his own bond.

****

"Copy"

District Magistrate,
Shimoga ~~District~~.

Letter No. J1.C. 280/37-38 dated 14-2-1938 from the Registrar, High Court of Mysore, Bangalore to

4829/p37 (7)

No. C.C. 13/37-38

OFFICE OF THE DEPUTY COMMISSIONER,
SHIMOGA DISTRICT.

CONFIDENTIAL.

Dated Shimoga, February 15th, 1938.

Law 130-37-3

FROM

~~S. NARAYANA RAO, ESQ., M.A.~~ (Hons.),
M. SESHADRI, ESQ; M.A., *Deputy Commissioner,*
Shimoga District.

To

B.T. KESAVAIENGAR, ESQ., B.A.,
Chief Secretary to the Govt. of Mysore,
BANGALORE.

SIR,

I have the honour to invite reference to my D.O. letter No. C.C. 13/37-38 dated the 11th instant, reporting the conviction of the marginally noted two persons under sections 70 and 73 of the Mysore Police Act, for having disobeyed on the 11th instant, the notification issued by Govt under section 39 of the Mysore Police Act prohibiting the ~~under~~taking of the Congress Independence pledge and the hoisting of National Flag in public places. Of the two persons named above, the first namely Basappiah was convicted on two counts under sections 70 and 73 of the Mysore Police Act and sentenced to pay a fine of Rs 100/- on each count in default to suffer rigorous imprisonment for one month. The second namely Srinivasa Murthy was convicted under section 70 of the Mysore Police Act and sentenced to pay a fine of Rs 50/- in default to suffer simple imprisonment for 20 days. These two persons having failed to pay the fine amount were committed to the Sub Jail of Shimoga for serving out the default sentence passed on them. If it is the intention of Government that the unexpired portion of the sentences in these two cases also should be remitted under section 401, Criminal Procedure Code, I request the favour of your obtaining the orders of Government in this behalf.

Basappiah.
Sreenivasa Murthy.

I have the honour to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Shimoga District.

G. R. S. App. F VI—G 2]

SUBJECT .....

.....

.....

Diary. No. of letter replied to.....

General and Revenue Secretariat

( )

the *193*

Date of issue.....17.2.....1938.

Signed by .....

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

Section Law

File No. 130-37

Serial No. 4

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read— Letter no C.C. 13/37-38, dated 15th Feb: 1938 from the the Dist Magh Shimoga ~~Submitting for~~ Soliciting orders of Govt in regard to the Remission of Sentences the Un-expired portion of the Sentences ~~Order thereon. No.~~ passed on Basappa and Sreenivasa Murthy who under the Mysore Police Act.

Order P4496-8

Under Sec: 401 Cr. P.C.

Govt are pleased to remit the Un-expired portion of the punishment (Sentence of

imprisonment & fine or both
(as the case may be) passed
in Bassappa and Shanivasa Murthy
and direct that they be
released forthwith.

MS
17.2.35
DIR
17.2. Chief Secy.

To

(1) The D.C., Shimoga.
(2) The I.G. of Police
(3) The I.G. of Prisons.

List of Enclosure

Copied by

Examined by

WD 3602—GPB—22,500—12-7-35